IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.6448 OF 2005

Gopal Santayya Yeldi ...Applicant
Vs.
The State of Maharashtra ...Respondent

Mr. P.P.Hudalikar i/by Ujwal Agandsurve for the Applicant.
Mr. R.Y.Mirza, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : OCTOBER 03, 2005.

P.C.:

1. Heard the learned Counsel appearing for the Applicant and the learned A.P.P. for the State. The offence registered against the Applicant and the co-accused is under sections 302, 201, 147, 148 read with section 147 of the Indian Penal Code. The Application for Bail made by the Applicant and other co-accused has been rejected by the learned Sessions Judge on 12th September, 2005. It is not in dispute that by that date, investigation was completed and only the chargesheet was not filed and necessary papers pertaining to the investigation were placed before the learned Sessions Judge.

2. The learned Counsel for the Applicant submitted that the deceased was of unsound mind. He entered the factory of the Applicant. According to the prosecution case, he picked up a hammer in the factory and he started hitting the looms in the factory by the hammer. The learned Counsel submitted that the allegation against the Applicant is that

hands and legs of the deceased were tied by co-accused on instructions of the Applicant. However, there is no allegation against the Applicant of any assault on the deceased and there is no allegation that the assault was on instructions of the Applicant. It is submitted that age of the Applicant is more than sixty-five years and he has undergone coronary artery bypass surgery in March, 2004.

3. The learned A.P.P. has placed on record material collected during the course of investigation. He pointed out that after the deceased entered the factory premises of the Applicant, on instructions of the Applicant, his hands and legs were tied and was assaulted by a hammer and thereafter dead body was thrown outside the compound. He, therefore, submitted that no case is made out for enlarging the Applicant on bail.

4. I have considered the submissions. There is prima facie material on record in the form of a complaint by brother-in-law of the deceased to show that the deceased was mentally ill person. Even according to the case of the prosecution, the deceased entered the factory premises of the Applicant and started hitting the looms in the factory premises by using a hammer. He attacked one worker Nagnath Koli

and assaulted him by the hammer. The statements of the eye-witnesses no doubt, indicate that at the instance of the Applicant hands and legs of the deceased were tied. However, the witnesses have not stated that at the instance of the Applicant the accused No.2 Vijay gave blow of hammer on the head of the deceased. However, specific allegation against the Applicant is that after it was realised that the deceased had succumbed to the injuries, he directed that dead body of the deceased should be taken outside the factory premises.

5. Investigation has been completed. The statements of witnesses have been recorded. There are no criminal antecedents of the Applicant. There are documents to show that the age of the Applicant is more than sixty-five years and he has undergone a heart surgery. Considering the role ascribed to the Applicant and considering the aforesaid factors, a case is made out for enlarging the Applicant on bail subject to stringent conditions.

6. Hence, I pass the following order:

: O R D E R :

i) The Applicant shall be enlarged on bail in

connection with **C.R.No.246 of 2005 registered with Jail Road Police Station, Solapur,** subject to furnishing a personal bond of **Rs.25,000/-** with one or two local sureties in the like amount.

ii) The Bail is granted subject to condition that till the filing of the chargesheet the Applicant will attend the concerned Police Station on every Saturday at 11.00 a.m.

iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

iv) The Applicant shall co-operate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE